

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

SPIRIT OF THE SAGE COUNCIL, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 98-1873
	)	(EGS)
GALE NORTON, SECRETARY, U.S.	)	
DEPT. OF THE INTERIOR, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

**ORDER**

Upon consideration of plaintiffs' Motion to Clarify and/or Amend the Court's Order of December 11, 2003, the Response, and Reply thereto, the Court's December 11, 2003 Order, the defendants' Notice regarding the Withdrawal of the Rule, the plaintiffs' Response to the Withdrawal of the Rule, and the entire record in this case, it is by the Court hereby

**ORDERED** that plaintiffs' Motion is **GRANTED**; and it is further

**ORDERED** that defendants will complete all proceedings remanded by the Court's Order of December 11, 2003, by no later than December 10, 2004; and it is further

**ORDERED** that, until and unless the United States Fish and Wildlife Service adopts new revocation rules specifically applicable to Incidental Take Permits ("ITPs") following full compliance with the advance public notice and comment

requirements of the Administrative Procedures Act, 5 U.S.C. § 553, all ITPs issued by the FWS shall be subject to the general revocation standard applicable to other FWS permits, see 50 C.F.R. § 13.28(a)(5); and it is further

**ORDERED** that, pending completion of the proceeding on remand, defendants shall refrain from approving new ITPs or related documents containing "No Surprise" assurances, as defined by defendants' No Surprise rule published at 63 Fed. Reg. 8859 (Feb. 23, 1998). Nothing in this Order prevents defendants from approving ITPs that do not contain such assurances.

**Signed:   Emmet G. Sullivan**  
**United States District Judge**  
**June 10, 2004**